

concern because housing credits are provided on an accelerated basis in the sense that they are claimed over a ten-year period, while the property must remain in compliance with the targeting rules over a minimum 15-year period.

However, the experience with the housing credit over the past 15 years demonstrates that this concern is no longer valid. When the housing credit program was enacted, policy-makers thought in terms of previous affordable housing tax incentives that supported an aggressive tax shelter market dominated by individual investors. As it turns out, virtually all (99% today) investment capital in the housing credit program is from publicly traded corporations that pose none of the risks of noncompliance that motivated enactment of the recapture bond rules. Ironically, sales of individual partnership interests in public partnerships with more than 35 investors are exempt from the recapture rules.

There are also other provisions in Code section 42 that adequately address potential noncompliance. In 1989, Congress added the requirement that all state allocating agencies adopt "extended use agreements" to be recorded as restrictive covenants on housing credit properties, which require the property to remain in compliance. In addition, the state allocating agencies were given oversight responsibilities to ensure continued compliance through site inspections and property audits.

The requirement to purchase recapture bonds forces investors to incur unnecessary costs and has produced a complex administrative burden on the IRS. Since bond filings are done building by building, and since single sales transactions frequently involve hundreds of properties, each with dozens of buildings, bond filings may involve thousands of separate filings. Worse yet, the few remaining surety companies writing this type of business operate in an inefficient market. Recapture surety bonds are priced in a fashion that does not measure the true risk of non-compliance, but rather relies solely on the credit rating of the company requesting the bond. This is a function of the fact that surety underwriters do not understand the housing credit program in general or the risk of noncompliance in particular.

At the same time, the incidence of non-compliance with housing credit program rules is exceedingly rare. Meanwhile in the aftermath of the September 11th terrorist acts and the spate of corporate accounting scandals, the surety market is in turmoil. Recapture bond premiums, even for highly rated public companies, have more than tripled over the past two years. This has imposed dead weight costs on the housing credit program. By making it more difficult to transfer credit investments, the recapture bond rule impairs the liquidity of housing credit investments, reducing credit prices generally, and undermining the overall efficiency of the program.

The IRS recently responded to a series of questions we posed about the recapture bond requirement. According to the IRS, since just 1997, recapture bonds covering approximately \$1.8 billion of tax credits have been posted—but in the 17 years since the requirement was enacted, the Service has never made a claim on a recapture bond. That works out to bond premium payments of about \$150 million, to ensure against an event that has never occurred. These costs are unnecessary and are

imposing a real drag on the market for investments in housing credit properties.

Our bill will solve this problem by repealing the recapture bond requirement effective for disposition of interests in LIHTC properties after the date of enactment. An owner of a building (or interest therein) (generally, a limited partnership) that has been the subject of a disposition and is still within the remaining 15-year compliance period with respect to such building would be required to submit a report to its former investors when a recapture event with respect to such building occurs. A copy of recapture event forms sent to investors would be required to be filed with the IRS in order to provide the Service with the information necessary to ensure that all recapture liabilities are timely paid. The general statute of limitations applicable to taxpayers would be modified so that investors who dispose of a building after the effective date of the legislation would remain liable for any potential recapture liability for a period extending through the compliance period for such building to provide the IRS with additional time to audit the partnership's return to ensure the building's continuing compliance with the credit's requirements. Taxpayers who disposed of a building (or interest therein) prior to the date of enactment would not be required to maintain existing recapture bonds (or other alternative security), but cancellation of existing bonds would trigger an extension of the statute of limitations provided for in the legislation.

We encourage you to join us in cosponsoring this important legislation.

A FINE SENSE OF IRONY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. SMITH of New Jersey. Mr. Speaker, Russian Foreign Minister Igor Ivanov demonstrated a fine sense of irony recently when he criticized the United States for an "excessive tendency to use force" in resolving international issues.

Let me state clearly that I do not believe my country should reach for its huge arsenal of weapons and troops every time we are faced with a difficult situation abroad. To everything there is a season.

Nevertheless, it is ironic that the Russian Government should accuse the United States of taking military action when back home in Chechnya the Russian Government has demonstrated not only an excessive tendency to use force, but also a tendency to use excessive force.

This is not meant to ignore or justify the human rights abuses of the Chechen separatist movement. The Russian Government is entitled to defend its territorial integrity and defend its citizens against civil disorder. But the fact remains that with its "anti-terrorist operation," Moscow has unleashed a massive and brutal military campaign that frequently makes no distinction between combatants and non-combatants. As Newsweek's distinguished commentator Fareed Zakaria wrote in August of this year, "Over the past ten years, Russia's military has had a scorched-earth policy toward Chechnya. The targets are not simply Chechen rebels but, through indiscriminate

warfare, ordinary Chechens . . . Over time, the Chechen rebellion has become more desperate, more extreme and more Islamist."

Not only are such tactics inhumane and cynical, they lead not to peace in Chechnya, but to a more protracted conflict. In this week's National Interest online, Seva Gunitzky reports on how the tactics of the Russian military has radicalized a population that might otherwise have rejected the armed militants: "For by refusing to distinguish between fighters and civilians, the Russian army fused together the interests of previously disparate groups . . . [and] created a far more dangerous foe."

Besides the widespread civilian casualties and property destruction caused by the indiscriminate use of force by Russian military and security forces, the Chechen conflict has resulted in the displacement of hundreds of thousands of persons. Moreover, the recent presidential elections in Chechnya were so obviously flawed that they could hardly be said to reflect the will of the people.

I welcome an exchange of opinions with other government leaders and parliamentarians regarding U.S. foreign policy. Nevertheless, I hope that Moscow will reexamine its own excessive tendency to use force in Chechnya and make every effort to reach a legitimate political settlement there.

HONORING PORTUGUESE EDUCATION FOUNDATION OF CENTRAL CALIFORNIA

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor the continued efforts of the Portuguese Education Foundation of Central California and their numerous contributions to our community. The Foundation works tirelessly to educate the community and to recognize individuals for such efforts.

Tonight, the Foundation is honoring members of the community for their valued contributions and achievements. In addition, the Foundation is recognizing over 30 Foundation Scholarship recipients, lending these individuals strong support in their continuing pursuit of educational goals.

It is my distinct pleasure to pay tribute to the Foundation's 2003 community honorees.

Former Congressman Tony Coelho is being honored as the 2003 Citizen of the Year. Tony, my mentor and good friend, has been an exemplary member of the Portuguese community for many years. He served with distinction as Majority Whip in the United States House of Representatives and continues to think of our San Joaquin Valley as his home.

I am delighted to also recognize the achievements of Maria de Lourdes Silva. Maria has been selected as the 2003 Student of the Year by the Foundation. She is being honored for her outstanding academic achievement and research for the Portuguese Heritage Community of California. I commend her on her dedication to the community.

Finally, it is my honor to recognize Jose Luis da Silva, who has been selected as the 2003 Professor of the Year by the Foundation for his contributions and dedication to sharing